IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO. 9118 OF 2004
WITH .
CIVIL APPLICATION NO. 3142 OF 2005.

Lilaram L. Lalwani .. Petitioner.
V/s.
Kishanchand L.Lalwani ... Respondents.

Smt. Trupti J.Gohil for the petitioner.

Shri A.C. Singh for respondent No.1.

Shri K.R.Dhanuka i/b V.M. Tarleja for respondent No.4.

CORAM : V.C.DAGA, J.

DATED : 8.3.2006.

P.C. :

. Rule returnable forthwith. Shri Singh waives service on behalf of the respondent No.1. Shri Dhanuka waives service on behalf of respondent No.4. Heard finally by consent of parties.

2. Petitioner has filed a suit for permanent injunction against defendant Nos. 1 and 2 which is clear from the prayers (a) and (b) incorporated in the plaint. During the pendency of the suit, plaint came to be amended. Prayer b(i) thereof reads as under:

> . "This Hon'ble Court by an order and direction, direct the defendant No.1 to refund to the defendant No.3 the said amount of Rs. 2,89,000/- received by him from the defendant No.3 as T.D.R. benefits."

3. Reading of the aforesaid prayer would go to show that the plaintiff has also claimed a decree against defendant No 1 to refund the amount of Rs. 2,89,000/- received by him from defendant No.3as TDR benefit. In this view of the matter, it was expected on the part of the plaintiff to amend the valuation clause in the suit by paying necessary court fees. However, that has not been done.

4. It cannot be disputed that once relief is claimed for refund of Rs. 2,89,000/- and since jurisdiction of the City Civil Court is upto Rs. 50,000/-, the present suit falls beyond the pecuniary jurisdiction of the City Civil Court in view of the amended plaint. In this view of the matter, if the trial Court has returned the plaint for presentation to proper Court under O.7 R.10 of C.P.C., no fault can be found with the same.

5. In the above view of the matter, petition is without any merit and the same is dismissed. Rule is discharged with no order as to costs.

6. Petitioner to take back plaint for presentation to proper Court within 15 days from the date of receipt of copy of this order. In view of disposal of the writ petition, civil application does not survive.